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SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY SACRAMENTO

FAIR POLITICAL PRACTICES COMMISSION,)	Case No.
a state agency,)	
)	FPPC No.: 02/020
Plaintiff,)	
)	COMPLAINT FOR CIVIL
v.)	PENALTIES UNDER THE
)	POLITICAL REFORM ACT OF 1974,
REPUBLICAN NATIONAL COMMITTEE-)	AS AMENDED
CALIFORNIA ACCOUNT AND JAY BANNING.)	
)	(Government Code §§ 91001(b) and
Defendants.)	91004)
)	
)	

Plaintiff, FAIR POLITICAL PRACTICES COMMISSION, a state agency, alleges as follows:

1. Plaintiff brings this action in the public interest to enforce the provisions of the Political Reform Act of 1974. (Government Code sections 81000 through 91014.)

JURISDICTION

2. This court has original jurisdiction over the amount in controversy in this matter. Pursuant to Code of Civil Procedure section 393, as the violation took place in connection with a campaign statement that should have been filed with the California Secretary of State's office, located in the County of Sacramento, the County of Sacramento is the proper venue for this action.

1 **PARTIES**

2 **PLAINTIFF FAIR POLITICAL PRACTICES COMMISSION**

3 3. Plaintiff Fair Political Practices Commission (the “Commission”) is a state agency
4 created by the Political Reform Act of 1974 (the “Act”). The Commission has primary responsibility for
5 the impartial, effective administration and implementation of the Act. (Gov. Code § 83111.) Pursuant to
6 Government Code section 91001, subdivision (b), the Commission is the civil prosecutor for matters
7 involving state election campaigns, and is authorized to maintain this action under Government Code
8 sections 91001, subdivision (b), 91004, 91005 and 91005.5.

9 **DEFENDANTS REPUBLICAN NATIONAL COMMITTEE-CALIFORNIA ACCOUNT AND JAY**
10 **BANNING**

11 4. Defendant Republican National Committee-California Account was, at all times relevant
12 to this matter, a recipient committee as defined in Government Code section 82013, subdivision (a).

13 5. Defendant Jay Banning was, at all times relevant to this matter, the treasurer of
14 Defendant Republican National Committee-California Account.

15 **CAMPAIGN REPORTING REQUIREMENTS**

16 6. An express purpose of the Act, as set forth in Government Code section 81002,
17 subdivision (a), is to ensure that the contributions and expenditures affecting election campaigns are
18 fully and truthfully disclosed to the public, so that voters may be better informed, and so that improper
19 practices will be inhibited.

20 7. In furtherance of this purpose of disclosure, the Act sets forth a comprehensive campaign
21 reporting system. (Gov. Code § 84200 et seq.)

22 **CIVIL LIABILITY**

23 8. Pursuant to Government Code section 91004, any person who intentionally or negligently
24 violates any of the reporting requirements of the Act shall be liable in a civil action in an amount up to
25 the amount not properly reported. Persons that violate Government Code section 84203 are liable in a
26 civil action pursuant to Government Code section 91004.

27 9. Pursuant to Government Code sections 81004, subdivision (b) and section 84100, and
28 California Code of Regulations, title 2, section 18427, subdivision (c), it is the duty of a committee’s

1 treasurer to ensure that the committee complies with all of the requirements of the Act concerning the
2 receipt and expenditure of funds, and the reporting of such funds. A committee's treasurer may be held
3 jointly and severally liable, along with the committee, for any reporting violations committed by the
4 committee. (Gov. Code §§ 83116.5, 91006.

5 **FIRST CAUSE OF ACTION**

6 (FAILURE TO REPORT LATE CONTRIBUTIONS)

7 10. Plaintiff realleges, and incorporates herein, paragraphs one through nine.

8 11. Government Code section 82036 defines a "late contribution" as a contribution
9 aggregating \$1,000 or more that is received before an election, but after the closing date of the last pre-
10 election statement.

11 12. Government Code section 82015, subdivision (a), defines a "contribution," in pertinent
12 part, as a payment except to the extent that full and adequate consideration is received, unless it is clear
13 from the surrounding circumstances that it is not made for political purposes.

14 13. When a recipient committee makes a late contribution, Government Code section 84203
15 requires the committee to file a late contribution report within 24 hours of making the contribution, by
16 facsimile transmission, telegram, guaranteed overnight mail through the United States Postal Service, or
17 personal delivery.

18 14. On a late contribution report, Government Code section 84203 requires the committee
19 making the late contribution to report his or her full name and street address and the full name and street
20 address of the person to whom the late contribution has been made, the office sought if the recipient is a
21 candidate, and the date and amount of the late contribution.

22 15. Government Code section 84203, subdivision (a), and Government Code section 84215,
23 subdivision (b) require state general purpose committees to file late contribution reports as follows: (1)
24 the original and one copy with the Secretary of State; (2) two copies with the Registrar-Recorder of the
25 County of Los Angeles; and (3) two copies with the Registrar of Voters of the City and County of San
26 Francisco.

27 16. On November 1, 2000, Defendants made four late contributions totaling \$200,000 to four
28 state legislative candidates running for office in the November 7, 2000 general election. The amount of

1 each late contribution was \$50,000. The four state legislative candidates who received the late
2 contributions were as follows: (1) Bob Margett, candidate for the 29th Senatorial District; (2) Richard
3 Rainey, candidate for the 7th Senatorial District; (3) Rudy Svorinich, candidate for the 27th Assembly
4 District; and (4) Craig Missakian, candidate for the 43rd Assembly District.

5 17. After making the four late contributions, Defendants had a duty to file a late contribution
6 report no later than November 2, 2000, disclosing the late contributions. Defendants did not file a late
7 contribution report disclosing the four late contributions by the November 2, 2000 due date.

8 18. By failing to report four late contributions by November 2, 2000, Defendants violated
9 Government Code section 84203, subdivision (a).

10
11 WHEREFORE, Plaintiff prays for judgment against Defendants as follows:

12 1. For statutory penalties against Defendants, payable to the "General Fund of the State of
13 California," according to proof, in an amount up to the amount not properly reported, as permitted by
14 Government Code section 91004.

15 2. For such other and further relief as the Court may deem proper.

16
17 Dated: 8/12/02

FAIR POLITICAL PRACTICES COMMISSION

18
19
20 By:

Julia Bilaver
Julia Bilaver
Attorney for Plaintiff
Fair Political Practices Commission